



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/085,886

02/27/2002

Dan Kikinis

007287.00017

7769

22907

7590

09/07/2011

BANNER & WITCOFF, LTD.

1100 13th STREET, N.W.

SUITE 1200

WASHINGTON, DC 20005-4051

EXAMINER

SCHNURR, JOHN R

ART UNIT

PAPER NUMBER

2421

MAIL DATE

DELIVERY MODE

09/07/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/085,886

Applicant(s)

KIKINIS, DAN

Examiner

JOHN SCHNURR

Art Unit

2421

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1-12 and 18-30 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1-12 and 18-30 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-884)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

1. This Office Action is in response to the Amendment After Non-Final Rejection filed 06/29/2011. Claims 1-12 and 18-30 are pending and have been examined.

Response to Arguments

2. Applicant's arguments with respect to claims 1-12 and 18-30 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims **1, 4, 5, 7, 10, 11 and 18-30** are rejected under 35 U.S.C. 103(a) as being unpatentable over **McClard (US 6,438,752)** in view of **Wang et al. (US 2003/0028871)**, herein Wang, in view of **Bedard (US 5,801,747)** in view of **Knee et al. (US 2002/0095676)**, herein Knee.

Referring to **claim 1**, McClard teaches a method performed by a processor comprising:

adding a category from a first set of categories of content items to a second set of categories of content items in response to a content viewing device being tuned, for a period of time at least equal to a first predetermined threshold, to a content items belonging to a category of the first set of categories; (**Column 4 lines 64-67 and Figure 3 element 54 teaches storing program category information in the memory and Column 5 lines 52-67 and Column 6 lines 1-9 teaches that when a program is watched for a period of time the program is added to a frequency watch list**

in memory 56 of Figure 3 and along with the program name the type/genre is added to memory 56 thus the category of a program is added from a first set of categories in memory 54 to a second set of data that includes categories in memory 56)

However, McClard does not explicitly teach updating the second set of categories in response to a plurality of content items being tuned for a period of time at least equal to a first predetermined threshold.

In an analogous art, Wang, which discloses a system for collecting viewing information, clearly teaches updating the second set of categories in response to a plurality of content items being tuned for a period of time at least equal to a first predetermined threshold. **(Session time is added to total time and if total time is greater than a predetermined threshold the preference profile is updated, [0034].)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of McClard by updating the second set in response to a plurality of content items being tuned for a period of time at least equal to a first predetermined threshold, as taught by Wang, for the benefit of determining channel surfer preferences ([0034] Wang).

However, McClard combined with Wang does not explicitly teach the period of time includes a first amount of time tuned to a first content item belonging to the category and a second amount of time belonging to the category.

In an analogous art, Bedard, which discloses a system for collecting viewing information, clearly teaches the period of time includes a first amount of time tuned to a first content item belonging to the category and a second amount of time belonging to the category. **(Fig. 2: Subcategory viewing unit counters 206 are added to determine the total viewing time of each subcategory, col. 4 lines 49-65.)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of McClard combined with Wang by finding the total time each category was viewed, as taught by Bedard, for the benefit of determining more accurate viewer behavior information (col. 4 lines 63-65 Bedard).

McClard further teaches creating multiple profiles. **(column 5 lines 19-41)** McClard combined with Wang and Bedard fails to teach determining a demographic profile based on the second set of categories; and selecting a first advertisement based on the demographic profile.

In an analogous art, Knee teaches determining a demographic profile based on the second set of categories (**Paragraphs [0029] and [0030] and Figure 2 teach determining demographic categories for a user; Paragraph [0036] teaches that a show's category is used determine a user's demographic profile**); and selecting a first advertisement based on the demographic profile (**Paragraph [0050] teaches determining an advertisement from the user demographic profile**).

At the time the invention was made it would have been obvious for one skilled in the art to modify the category set moving method McClard combined with Wang and Bedard using the demographic profiling and advertisement determination method of Knee for the purpose of categorizing user information into demographic categories that could then be used for specified purposes, such as for targeting advertisements or taking certain actions in the program guide (Paragraph [0007], Knee).

Referring to **claim 4**, depending on claim 1, Knee teaches receiving a set of advertisements including the first advertisement (**Paragraph [0023]**).

Referring to **claim 5**, depending on claim 1, Knee teaches removing a category from the second set of categories in response to the content viewing device not being tuned for a period of time at least equal to a second predetermine threshold, to at least one content item belonging to the category of the second set of categories (**Paragraph [0044]**).

Referring to **claim 7**, see the rejection of claim 1; (**McClard Figure 3 teaches element 50 a processor and element 52 is memory according to Column 4 lines 54-61; Knee teaches Figure 1 and elements 64 memory and 60 a microprocessor according to Paragraph [0028].**)

Referring to **claim 10**, depending on claim 7, see the rejection of claim 4.

Referring to **claim 11**, depending on claim 7, see the rejection of claim 5.

Referring to **claim 18**, depending on claim 1, McClard teaches adding a category from the first set to the second set in response to multiple selections of at least one content item belonging to the category of the first set of categories, said multiple selections at least equal to a predetermined number of selections. (**col. 6 line 62 to col. 7 line 7**)

Referring to **claim 19**, depending on claim 7, see the rejection of claim 18.

Referring to **claim 20**, depending on claim 1, McClard teaches adding a category from the first set to the second set of categories in response to a

selecting of the category from the first set. **(Column 5 lines 52-67 and Column 6 lines 1-9 teaches that when a program is watched for a period of time the program is added to a frequency watch list in memory 56 of Figure 3 and along with the program name the type/genre is added to memory 56 thus the category of a program is added from a first set of categories in memory 54 to a second set of data that includes categories in memory 56 when the category is selected by tuning the program.)**

Referring to **claim 21**, depending on claim 7, see the rejection of claim 20.

Referring to **claim 22**, depending on claim 1, McClard teaches increasing a weight value of a category based on a duration of viewing time for at least one content item in that category **(Column 6 lines 5-9 teaches if the user watches a particular program for a predetermined period of time the genre is stored in frequency memory 56.)**; and wherein the step of determining a plurality of demographic profiles includes utilizing weight values for categories to determine said demographic profiles. **(Column 6 line 62 to Column 7 line 7 teaches the weight of the genre for a particular time period is used in the user profile.)**

Referring to **claim 23**, depending on claim 7, see the rejection of claim 22.

Referring to **claim 24**, depending on claim 1, Knee teaches removing a category from the second set in response to a selection of the category from the second set **(Categories which have not been viewed are selected to be removed [0044].)**

Referring to **claim 25**, depending on claim 7, see the rejection of claim 24.

Referring to **claim 26**, depending on claim 1, Bedard clearly teaches determining that the content viewing device has been tuned, for a period of time at least equal to a first predetermined threshold, to a plurality of content items belonging to a category of the first set of categories includes: determining a first period of time the content viewing device is tuned to a first content item belonging to the category of the first set of categories; and determining a second period of time the content viewing device is tuned to a second content item different from the first content item, the second content item also belonging to the category of the first set of categories, wherein the sum of the first period of time and second period of time is at least equal to the first predetermined threshold. **(Fig. 2: The viewing units for each category from different channels are added to one another to determine the period of viewing for each category, col. 4 lines 49-65.)**

Referring to **claim 27**, depending on claim 7, see rejection of claim 26.

Referring to **claim 28**, depending on claim 1, Knee clearly teaches determining a first demographic profile by comparing categories in the second set of categories to one or more sets of categories, the one or more sets of categories corresponding to different demographic profiles. **(Demographic category information is selected based on the user's selections and used to select advertisements, [0050].)**

Referring to **claim 29**, depending on claim 7, see rejection of claim 28.

Referring to **claim 30**, McClard teaches an apparatus comprising:

a processor; and memory operatively coupled to the processor and storing computer readable instructions **(Fig. 3 teaches element 50 a processor and element 52 is memory according to Column 4 lines 54-61)** that, when executed, cause the apparatus to:

add a category from a first set of categories of content items to a second set of categories of content items in response to a content viewing device being tuned, to a plurality of content items belonging to a category of the first set of categories. **(Column 4 lines 64-67 and Figure 3 element 54 teaches storing program category information in the memory and Column 5 lines 52-67 and Column 6 lines 1-9 teaches that when a program is watched for a period of time the program is added to a frequency watch list in memory 56 of Figure 3 and along with the program name the type/genre is added to memory 56 thus the category of a program is added from a first set of categories in memory 54 to a second set of data that includes categories in memory 56)**

However, McClard does not explicitly teach updating the second set of categories in response to a plurality of content items being tuned for a period of time at least equal to a first predetermined threshold.

In an analogous art, Wang, which discloses a system for collecting viewing information, clearly teaches updating the second set of categories in response to a plurality of content items being tuned for a period of time at least equal to a first predetermined threshold. **(Session time is added to total time and if total time is greater than a predetermined threshold the preference profile is updated, [0034].)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of McClard by updating the second set in response to a plurality of content items being

Art Unit: 2421

tuned for a period of time at least equal to a first predetermined threshold, as taught by Wang, for the benefit of determining channel surfer preferences ([0034] Wang).

However, McClard combined with Wang does not explicitly teach the period of time includes a first amount of time tuned to a first content item belonging to the category and a second amount of time belonging to the category.

In an analogous art, Bedard, which discloses a system for collecting viewing information, clearly teaches the period of time includes a first amount of time tuned to a first content item belonging to the category and a second amount of time belonging to the category. **(Fig. 2: Subcategory viewing unit counters 206 are added to determine the total viewing time of each subcategory, col. 4 lines 49-65.)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of McClard combined with Wang by finding the total time each category was viewed, as taught by Bedard, for the benefit of determining more accurate viewer behavior information (col. 4 lines 63-65 Bedard).

McClard further teaches creating multiple profiles. **(column 5 lines 19-41)** McClard combined with Wang and Bedard fails to teach determining a demographic profile based on the second set of categories; and selecting a first advertisement based on the demographic profile.

In an analogous art, Knee teaches determining a demographic profile based on the second set of categories **(Paragraphs [0029] and [0030] and Figure 2 teach determining demographic categories for a user; Paragraph [0036] teaches that a show's category is used determine a user's demographic profile);** and selecting a first advertisement based on the demographic profile **(Paragraph [0050] teaches determining an advertisement from the user demographic profile).**

At the time the invention was made it would have been obvious for one skilled in the art to modify the category set moving method McClard combined with Wang and Bedard using the demographic profiling and advertisement determination method of Knee for the purpose of categorizing user information into demographic categories that could then be used for specified purposes, such as for targeting advertisements or taking certain actions in the program guide (Paragraph [0007], Knee).

Art Unit: 2421

5. Claims **2, 3, 8 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over **McClard (US 6,438,752 B1)** in view of **Wang et al. (US 2003/0028871)** in view of **Bedard (US 5,801,747)** in view of **Knee et al. (US 2002/0095676)**, as applied to claims 1 and 7 above, and further in view of **Ellis et al. (US 2003/0020744)**, herein Ellis.

Referring to **claim 2**, depending on claim 1, McClard, Wang, Bedard and Knee fail to teach displaying the first advertisement with an interactive programming guide.

In an analogous art Ellis teaches displaying the first advertisement with an interactive programming guide (**Paragraphs [0125] and [0126] teach selecting an advertisement and Paragraph [0110] teaches using viewer history to determine which advertisements to use in the program guide, Figure 5 elements 108**).

At the time the invention was made it would have been obvious for one skilled in the art to modify the combined methods of McClard, Wang, Bedard and Knee using the targeted advertisement display method of Ellis for the purpose of providing users a user customized program guide experience (Paragraph [0010], Ellis).

Referring to **claim 3**, depending on claim 1, McClard, Wang, Bedard and Knee fail to teach transmitting the second set of categories to a unit at a head end of a broadcasting system providing the first set of categories of content items.

In an analogous art Ellis teaches transmitting the second set of categories to a unit at a head end of a broadcasting system providing the first set of categories of content items (**Paragraphs [0125] and [0126] and Figure 2b teach transmitting the user history to the program guide server element 25**).

At the time the invention was made it would have been obvious for one skilled in the art to modify the combined methods of McClard, Wang, Bedard and Knee using the transmission of recorded user history data to the head end of Ellis for the purpose of providing users' a user customized program guide experience (Paragraph [0010], Ellis).

Referring to **claim 8**, depending on claim 7, see rejection of claim 2.

Art Unit: 2421

Referring to **claim 9**, depending on claim 7, see rejection of claim 3.

6. Claims **6 and 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over **McClard (US 6,438,752 B1)** in view of **Wang et al. (US 2003/0028871)** in view of **Bedard (US 5,801,747)** in view of **Knee et al. (US 2002/0095676)**, as applied to claims 1 and 7 above, and further in view of **Schaffer et al. (US 2002/0104087)**, herein Schaffer.

Consider **claim 6**, McClard, Wang, Bedard and Knee, combined as in claim 1, clearly teach adding a category from a first set to a second set.

However, McClard, Wang, Bedard and Knee do not explicitly teach verifying profile updates with a viewer.

In an analogous art, Schaffer, which discloses a system for maintaining a user profile, clearly teaches verifying profile updates with a viewer. **(The feedback request command queries the user about a program being watched, [0048].)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of McClard, Wang, Bedard and Knee by verifying profile updates with a viewer, as taught by Schaffer, for the benefit of maximizing the performance of a television recommender ([0010] Schaffer).

Referring to **claim 12**, depending on claim 7, see rejection of claim 6.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is

Art Unit: 2421

filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN SCHNURR whose telephone number is (571)270-1458. The examiner can normally be reached on M-F 9a-5p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2421

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JRS

/KRISTINE KINCAID/
Supervisory Patent Examiner, Art Unit 2421